

[Cite as *State v. Williams*, 2015-Ohio-2197.]

STATE OF OHIO)
)ss:
COUNTY OF MEDINA)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 14CA0072-M

Appellee

v.

CHARLES A. WILLIAMS

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 10-CR-0125

Appellant

DECISION AND JOURNAL ENTRY

Dated: June 8, 2015

WHITMORE, Judge.

{¶1} Appellant, Charles A. Williams, appeals from a judgment of the Medina County Court of Common Pleas. This Court reverses.

I

{¶2} Williams was found guilty of the illegal manufacture of drugs, a first-degree felony in violation of R.C. 2925.04(A) and (C)(3)(b), and possession of drugs, a fifth-degree felony in violation of R.C. 2925.11(A) and (C)(1)(a). The trial court imposed a sentence of 6 years for the illegal manufacture of drugs conviction and 12 months for the possession of drugs conviction. The court ordered those sentences to be served consecutively to one another and consecutively to a sentence that Williams had received in a Summit County case.

{¶3} Williams appeals raising one assignment of error for our review.¹

II

Assignment of Error

THE TRIAL COURT ERRED WHEN IT IMPOSED CONSECUTIVE SENTENCES WITHOUT EXPRESSLY MAKING THE FINDINGS REQUIRED BY R.C. 2929.14 DURING THE SENTENCING HEARING.

{¶4} In this assignment of error, Williams argues that the trial court erred by imposing consecutive sentences without making any of the required findings under R.C. 2929.14(C)(4) at his sentencing hearing. The State concedes error. We agree.

{¶5} R.C. 2929.14(C)(4) provides:

If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds [1] that the consecutive service is necessary to protect the public from future crime or to punish the offender and [2] that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and [3] if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

{¶6} “In order to impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its

¹ Williams initially raised two assignments of error. He subsequently moved to withdraw his first assignment of error, and we granted that motion.

findings into its sentencing entry * * *.” *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, syllabus. While no talismanic words are required, a reviewing court must be able to determine that the findings were made and supported by the record. *Id.* at ¶ 29, 37.

{¶7} At the start of the sentencing hearing, the court stated that Williams was a “high-risk offender” and noted his prior record. Then, the court heard arguments regarding sentencing from the parties. In addition to his prior convictions, the State highlighted “the dangers of methamphetamine production” and Williams’ lack of concern for the people he endangers. Defense counsel acknowledged Williams’ “terrible record” but argued that “he never had the opportunity to seek counseling or rehabilitation.” In addition, while acknowledging that one of Williams’ previous cases involved a firearm, defense counsel characterized Williams as a non-violent individual who “just has a drug problem.” The State sought consecutive sentences, and defense counsel requested concurrent sentences.

{¶8} Thereafter, the trial judge stated:

I’m going to order a six-year sentence on Count I consecutive to Summit County, a 12-month sentence on Count II. That is consecutive to Count I and they are both consecutive to Summit County. I’m going to give him 455 days credit, a \$20,000 mandatory fine but that fine is waived, suspended because he is going to be in prison, a license suspension of five years but that really doesn’t matter because he’s going to be in prison for the next several years.

Aside from its initial reference to Williams’ prior record, which would be relevant to R.C. 2929.14(C)(4)(c), the court did not address any of the findings required by R.C. 2929.14(C)(4).² In addition, a history of criminal conduct is only a part of the finding required under R.C.

² The trial court’s sentencing entry likewise fails to state all the required findings. The entry states, “[i]n imposing the above term, the [c]ourt made the following findings: [t]he prison term for this offense would adequately punish the offender and/or protect the public from future crime by this offender and/or others.” While inclusion of the statutory findings in the sentencing entry would not cure the failure to make the findings at the sentencing hearing, we note that, even if the findings are made at the sentencing hearing, they must also be incorporated into the sentencing entry. *See Bonnell* at ¶ 29.

2929.14(C)(4)(c). That subsection also requires “that consecutive sentences are necessary to protect the public from future crime by the offender.” R.C. 2929.14(C)(4)(c).

{¶9} When a trial court imposes consecutive sentences without making the R.C. 2929.14(C)(4) findings at the sentencing hearing, the remedy is to remand the matter for resentencing. *E.g., State v. King*, 9th Dist. Summit No. 27069, 2014-Ohio-4189, ¶ 19. Williams’ assignment of error is sustained, and this matter is remanded for resentencing.

III

{¶10} Williams’ assignment of error is sustained. The judgment of the Medina County Court of Common Pleas is reversed, and the matter is remanded for further proceedings consistent with this opinion.

Judgment reversed
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellee.

BETH WHITMORE
FOR THE COURT

CARR, P. J.
MOORE, J.
CONCUR.

APPEARANCES:

NIKKI TRAUTMAN BASZYNSKI, Attorney at Law, for Appellant.

DEAN HOLMAN, Prosecuting Attorney, and MATTHEW A. KERN, Assistant Prosecuting Attorney, for Appellee.